June 10, 2010

#### VIA HAND DELIVERY

Jeff S. Jordan
Supervisory Attorney
Complaints Examination &
Legal Administration
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Brett G. Kappel
Attorney
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Re:

**MUR 6273** 

Dr. Authur B. Robinson, Art Robinson for Congress, Oregon Institute of Science and Medicine, Access to Energy and Althouse Press

Dear Mr. Jordan:

This response, including exhibits, is submitted on behalf of Dr. Arthur B. Robinson (R-OR) ("Dr. Robinson"), Art Robinson for Congress (the "Robinson campaign"), the Oregon Institute of Science and Medicine ("OISM"), Access to Energy and Althouse Press, in response to a complaint filed on April 16, 2010 by Trent Lutz, Executive Director of the Democratic Party of Oregon ("the Democratic Party"). The essence of the Democratic Party's complaint is that Dr. Robinson and the Robinson campaign failed to timely file a Statement of Candidacy and a Statement of Organization, respectively, and that the Robinson campaign accepted prohibited contributions from OISM, Access to Energy and/or Althouse Press. For the masons stated below, the Federal Election Commission ("FEC" or "the Commission") should take no further action against any of the respondents and close this matter.

#### Summary of the Facts & Legal Arguments

The Democratic Party's complaint should be seen for what it is: a blatant attempt to gain partisan political advantage over a novine candidate unfamiliar with FEC rules. The Democratic Party first alleges that Dr. Rabinson and the Robinson campaign intentionally violated FEC rules by failing to timely file a Statement of Candidacy and Statement of Organization, respectively. Complaint at page 1. The Democratic Party then proceeds to make baseless allegations that the Robinson campaign received contributions from prohibited sources. Complaint at page 2.

The Commission should reject the Demonstric Party's partisan policical effort to undermine a novice candidate through the abuse of the Commission's enforcement process. The Democratic Party's most serious allegation – that the Robinson campaign received contributions from prohibited sources – is simply false. The only corporate untity identified by the Democratic Party – the Oregon Institute of Science and Medicine – has not provided any support valutaneous to the Robinson campaign. The Democratic Party's allegation regarding OISM is based solely on the fact that OISM and the Robinson campaign have the same physical address. Had the Democratic Party conducted even a minimal investigation before filling its complaint, the party would have discovered that that address applies to an entire 500-acre ranch that is the location of several different buildings, including OISM, Dr. Robinson's home and several other buildings owned by Dr. Robinson's six adult children.

The Democratic Rarty's allegations against Access to Energy and Althouse Press have even less merit. Neither Access to Energy nor Althouse Press is a distinct legal entity. Again, had the Democratic Party conducted even a minimal investigation before filing its complaint, it would have discovered that Althouse Press is marely a factitions business ment that Dr.

<sup>&</sup>lt;sup>1</sup> Complemently dissect fines the Demonstric Patry's campitint are any specific reference to the provisions of the Federal Election Campaign Act ("FECA") or FEC regulations that the Democratic Party believes were violated. Presumably, the Democratic Furty is implying that the Futhingen comparing maximal patchibites accurate contributions in violation of 2 U.S.C. § 441b.

Robinson uses to personally publish a scientific newsletter. Access to Energy is Dr. Robinson's personal asset and, as such, he is entitled to expend his personal funds without limit for campaign purposes, provided that those expanditures are reported as in-kind contributions by Dr. Robinson to the Robinson campaign. 11 C.F.R. §§ 110.10, 100.33(a) and 100.52(d).

Dr. Robinson and the Robinson campaign concede that they failed to file the Statement of Candidacy and Statement of Organization in a timely manner. These oversights were not intentional, but rather a result of Dr. Robinson's inexperience as a candidate for Federal office. Dr. Robinson and the Robinson campaign filed both forms as soon as they became aware of the legal obligation to do so. Moreover, the Robinson campaign has now retained experienced campaign finance legal counsel and has filed all of its subsequent reports in a timely manner.

Accordingly, the Commission should take no further action against Dr. Robinson, the Robinson campaign, OISM, Access to Energy or Althouse Press and close this matter.

#### **Statement of the Facts**

Dr. Robinson is a scientist and educator residing in Cave Junction, Oregon. Before Masch 2010, he had never run for elected office and had no experience with running a campaign. Dr. Robinson's decision to seek the Republican nomination for the seat in the House of Representatives representing Oregon's Fourth Congressional District was made right before the deadline in Oregon for filling a Statement of Candidacy.

On March 9, 2010, Dr. Robinson filed a Statement of Candidacy with the Oregon Secretary of State – the last day that such a filing could be made in Oregon. Dr. Robinson assumed, incorrectly, that the Oregon Secretary of State would forward his Statement of Candidacy to the Commission. Dr. Robinson began campaigning after filing his Statement of

<sup>&</sup>lt;sup>2</sup> <u>See also</u> Advisory Opinion 1990-9 (Mueller).

Candidacy. Accordingly, the Robinson campaign should have filed its Statement of Organization with the Commission no later than March 24, 2010. 2 U.S.C. § 432(e)(1).

Needless to say, Dr. Robinson was not aware of the fifteen-day filing requirement for the Statement of Organization when he filled his Statement of Candidacy with the Oregon Secretary of State. The Robinson campaign misunderstood information about the Commission's filing deadlines provided by the Oregon Secretary of State and believed that the campaign's first FEC report was not due until thirty days after the campaign had received \$5,000 in contributions. The Robinson campaign did not receive contributions aggregating more than \$5,000 until March 22, 2010. Accordingly, the Robinson campaign did not began preparing its first FEC report until April 17, 2010, and it was at that point that Dr. Robinson and the Robinson campaign accessed the Commission's web site and determined that both the Statement of Candidacy and Statement of Organization were overdue. Dr. Robinson and the Robinson campaign filed the Statement of Candidacy and Statement of Candidacy and Statement of Candidacy and Statement up Organization with the Commission that same day. The Robinson campaign also sought out and retained legal counsel to ensure that the campaign complied with all future reporting requirements.

Dr. Robinson physically resides at 2231 Dick George Rend, Cave Junction, Oregon, 97523. This mailing address encourpasses an entire 500-acre ranch, which includes a number of different buildings, including those housing the Oregon Institute of Science and Medicine. The ranch is located in a rural area that does not receive direct mail delivery. Instead, mail sent to Dr. Robinson, Robinson for Congress, Access to Energy and Althouse Press is delivered to a post office box in the Cape Junction, Oregon past office. Mail soult to OISM is delivered to a separate post office bex at the same post office.

OISM owns several different buildings located at the 2251 Dick George Road address. Together, the OISM buildings consist of approximately 7,000 square feet of laboratory space and four rooms of office space. Dr. Robinson, and his son, Dr. Noah Robinson, perform scientific

work daily in the OISM buildings along with other scientists. The Robinson campaign does not operate out of the OISM buildings located at the 2251 Dick Guorge Road address. Rather, the Robinson campaign operates out of a sapasate ont-building owned by the Rubinson Family LLC.

The Robinson Family LLC is owned by Dr. Robinson's six adult children. The Robinson Family LLC owns a home, out-buildings and agricultural facilities located elsewhere on the 500-acre ranch. Dr. Robinson rents one of the Robinson Family LLC-owned out-buildings to use as his campaign headquarters and reimburses the Robinson Family LLC for the operating costs incurred in using the out-building for campaign purposes, i.e., electric utilities, telephone service, Internet service, etc. All of the payments Dr. Robinson makes to the Robinson Family LLC for the use of the property are reported as in-kind contributions by Dr. Robinson to the Robinson campaign. See Art Robinson for Congress, 12-Day Pre-Primary Report at 66-68 (May 5, 2010) (attached herete as Exhibit 1).

Dr. Robinson writes, produces and distributes his monthly newsletter focused on science and engineering, Access to Energy, to approximately 3,500 friends, family and colleagues in the scientific community. Access to Energy is not a corporation and it has no employees. Dr. Robinson pays the production and mailing costs out of his own pocket and income from Access to Energy, if any, is reported as Dr. Robinson's personal income on his annual income tax returns. Similarly, Althouse Press is not a corporation. It is merely a fictitious business name that Dr. Robinson uses to publish Access to Energy. Althouse Press is registered with the Oregon Secretary of State as an assumed business name used by Dr. Robinson. See Oregon Secretary of State, Business Ragistry Business Name Search results attached as Exhibit 2.3

<sup>&</sup>lt;sup>3</sup> It should be noted that the Democratic Party's complaint in this matter includes as an exhibit the results of an Oregon Secretary of State Business Registry Business Name Search for OISM, but failed to include the search results in this same database for Althouse Press. The Democratic Party's failure to provide this publicly available and relevant information to the Commission, which directly refutes the party's contention that Althouse Press was the source of an illegal corporate contribution to the Robinson campaign, demonstrates that the complaint in this matter was filed in bad faith for partisan political purposes.

#### Legal Arguments

There is simply no basis in law or fact to support the Democratic Party's allegation that the Robinson campaign massived party's allegation that the Robinson campaign has received 2 U.S.C. § 441b. The Democratic Party's allegation that the Robinson campaign has received prohibited contributions from OISM is based solely on the fact that the campaign and OISM share the same physical address – an address that encompasses an entire 500-acre ranch. Similarly, the Democratic Party's allegations regarding alleged prohibited contributions from Althouse Press and Access to Energy assumes that one or both are corporations when, in fact, neither has any legal existence other than as an alter ego of Dr. Robinson. Accordingly, the Democratic Party's allegation that the Robinson campaign violated 2 U.S.C. § 441b is totally without merit.

Dr. Robinson and the Robinson campaign concede that they failed to timely file the Statement of Candidacy and Statement of Organization, respectively, but these omissions were unintentional errors committed by a novice candidate who was unfamiliar with the Commission's rules and regulations. Dr. Robinson and the Robinson campaign filed the required forms the same day they learned of their legal obligation to do so and have retained experienced campaign finance counsel to ensure that there are no similar errors in the future. Accordingly, Dr. Robinson and the Robinson campaign respectfully suggest that the Commission conserve its scarce resources for more significant violations committed by less repentant parties and close this matter without taking any additional action against the respondents.

#### None of the Respondents Violated 2 U.S.C. § 441b

The Democratic Party's complaint alleges that the Robinson campaign received prohibited contributions from OloM, Althouse Press and Acress to Emergy. While the complaint does not say so specifically, the implication is that any contributions from these entities would violate 2 U.S.C. § 441b. These allegations simply lack all merit.

The Democratic Party's allegation that the Robinson campaign received a prohibited contribution from OISM is based solely on the fact that the Robinson campaign and OISM have the same physical address: 2251 Dick George Road, Cave Junction, Oregon 97523. Based on that simple fact, the Democratic Party leaps to the conclusion that the Robinson campalen is operating out of the OISM laboratory. Had the Descoratic Party conducted even a minimal investigation before filing the camplaint in this matter, the party would have discovered that the 2251 Disk George Road mailing address applies to the entire 500-acre Robinson family much. The ranch includes a number of different buildings. OISM owns several buildings in one section of the ranch. The OISM buildings consint of approximately 7,000 square feet of laboratory space and four rooms of office space. The Robinson campaign does not operate out of any of the OISM buildings. Rather, the Robinson campaign operates out of a separate out-building owned by the Robinson Family LLC. The Robinson Family LLC is owned by Dr. Robinson's six adult children. The Robinson Family LLC owns a home, out-buildings and agricultural facilities located elsewhere on the 500-acre ranch. Dr. Robinson rents one of the Robinson Family LLCowsed out-buildings to use as his campaign headquarters and reimburses the Robinson Family LLC for the operating costs incurred in using the out-building for campaign surposes, i.s., electric utilifam, telephene service, Internet service, etc. Ali of the payenmer Dr. Robinson makes to the Robieman Family LLC for the use of the property are reported as in-bind contributions by Dr. Rebinson to the Robinson campaign. See Exhibit 1. Accordingly, the Democratic Party's allegation that the Robinson campaign has received a prohibited corporate contribution from OISM is simply false.

The Democratic Party's complaint also alleges that the Robinson campaign received prohibited contributions from Althouse Press and Access to Energy. This allegation assesses that one or broth are compounte entities when, in fast, mithes has any legal existence other than as an alter ego of Dr. Robinson. Althouse Press is simply a fictations business name that Dr. Robinson uses to publish Access to Energy. Had the Democratic Party bothered to check the Oregon Secretary of State's Business Registry, the party would have determined that Dr. Robinson has registered Althouse Press as an assumed business name. See Exhibit 2. Registration of an assumed business name with the Oregon Secretary of State does not confer corporate status on Althouse Press. See generally O.R.S. ch. 648. (2009).

Similarly, Access to Energy is not a corporation and is nothing more than one of Dr. Robinson's personal assets. A candidate for Federal office may make unlimited expenditures from personal funds. 11 C.F.R. § 116.10. Commission regulations define the term "personal funds" to mean "any asset that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had either: (1) Legal and rightful title, or (2) an equitable interest." 11 C.F.R. § 100.33(a). The Commission has made it expressly clear that when a Federal candidate is the sole proprietor of a newsletter, the candidate may expend his personal funds without limit for campaign-related editions of the newsletter. Advisory Opinion 1990-9 (Mueller). The personal funds expended by the candidate for campaign-related editions of the newsletter must be reported by the campaign as in-kind contribution by the candidate to the campaign. Id. The Robinson campaign has filed an amended April 15th Quarterly Report disclosing an in-kind contribution by Dr. Robinson in the association \$\frac{1}{2}\$ \$\frac{1}{2

<sup>&</sup>lt;sup>4</sup> For purposes of calculating the in-kind contribution, the Commission has held that each edition of the newsletter must be viewed separately and in its entirety. "Any campaign-related content in a newsletter would render expenses of publishing the entire edition a campaign expenditure." Advisory Opinion 1990-9 at 2. As of the date the

Accordingly, there is simply no basis in law or fact for the Commission to conclude that there is any resonn to bolieve that Dr. Robinson, Robinson for Congress, the Oregon Institute of Science and Medicine, Access to Energy or Althouse Press committed any violation of 2 U.S.C. § 441b.

The Commission Recognizes the Unique Compliance Challenges Facing Novice Candidates and Routinely Declines to Pursue Inadvertent Violations of 2 U.S.C. § 432(e)(1)

Dr. Robinson and the Robinson campaign concede that they failed to file the Statement of Candidacy and Statement of Organization in a timely manner. These oversights were not intentional, but rather a result of Dr. Robinson's inexperience as a candidate for Federal office. The Robinson campaign misunderstand information about the Commission's filing deadlines provided by the Oragon Scoretory of State and holiswed that the campaign's fast FEC report was not due until thirty days after the campaign had reneived \$5,000 in contributions. The Robinson campaign did not receive contributions aggregating more than \$5,000 until March 22, 2010. Accordingly, the Robinson campaign did not began preparing its first FEC report until April 17, 2010, and it was at that point that Dr. Robinson and the Robinson campaign accessed the Commission's web site and determined that both the Statement of Candidacy and Statement of Organization were overdue. Dr. Robinson and the Robinson campaign filed the two required forms that same day. The Robinson campaign also sought out and retained experienced campaign finance legal counsel and has filed all of its subsequent reports in a timely manner.

The Commission is well aware of the compliance challenges facing novice candidates. In matters such as this, the Commission has historically opted to exercise its prosecutorial diametrion and chasen not to pursue allegations of violations of 2 U.S.C. § 432(a)(1) by novice candidates. Seq. e.g., MUR 5967 (David W. Robinson) (finding candidate failed to timely file Statement of Candidacy and Statement of Organization, but taking no further action); MUR 5251 (Joe Rogers, et al.) (finding candidate failed to file Statement of Candidacy and Statement of Organization and sending a letter of admonishment, but taking no further action); MUR 5264 (Charles F. Bass, et al.) (finding candidate failed to timely file Statement of Candidacy and sending a letter of admonishment, but taking no further action); MUR 4809 (Charles Ball, et al.) (finding candidate failed to timely file Statement of Organization and sending a letter of admonishment, but taking no further action); MUR 4785 (Ron Taber) (finding candidate violated 2 U.S.C. § 432(e)(1) by filing Statement of Candidacy laze and standing a letters of admonishment, but taking no further action).

Given that the violation of 2 U.S.C. § 432(e)(1) has already been corrected and the fact that legal counsel have been retained to ensure that no similar reporting violations occur in the future, Dr. Robinson and the Robinson campaign respectfully suggest that the Commission follow its precedents in similar matters and close this matter without taking any additional action.

#### Conclusion

For all of the reasons discussed above, the Commission should find that there is no reason to believe that Dr. Arthur B. Robinson, Art Robinson for Congress, the Oregon Institute of Science and Medicine, Access to Energy and Althouse Press committed any violation of 2 U.S.C. § 441b. In addition, the Commission should exercise its prosecutorial discretion and

take no further action against Dr. Arthur B. Robinson or Art Robinson for Congress for any violation of 2 U.S.C. § 432(e)(1).

Respectfully submitted,

Brett G. Kappel

Counsel for Dr. Arthur B. Robinson, Art Robinson for Congress, Oregon Institute of Science and Medicine, Access to Energy and Althouse Press

**Enclosures** 

## **EXHIBIT 1**

# **REPORT OF RECEIPTS**

FORM 3	1		SBURSE! Authorized Comm				too tion Only
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ART ROBINSON		NGRESS			-1-1-1-		
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# **EXHIBIT 2**



**Business Name Search** 

Search for a Business Name in the Business Registry Database Key all or part of a business name, or a registry number.

Business Name ALTHOURIE PRESS

Of

Registry Number

#### Search Methods (More restrictive to Less restrictive):

- Business Name Availability Check. Very restrictive. Positional.
  - Only (As keyed).
- © Exact words in exact word order. (Only. As keyed)
  Fastest.
- C Exact words in exact word order. (Followed by anything else)
- Exact words in any word order.
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- C Sound-alike words in any word order.
- © Extended Search in any word order. Adds Synonym style search

results. More names returned. Slowest.

- © Search for Active and Inactive businesses.
- Search for Active businesses only.
- C Search for Inactive businesses only.

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#### Please <u>read</u> before ordering <u>Copies</u>.

**New Search** 

**Summary History** 

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06-02- 2003	RENEWAL PAYMENT	06-02-2003		SYS		
05-18- 2001	RENEWAL PAYMENT	05-18-2001		SYS		
	STRAIGHT RENEWAL	05-26-1999		FI		
	STRAIGHT RENEWAL	05-27-1997		FI		
05-24- 1995	STRAIGHT RENEWAL	05-24-1995		FI		
06-29- 1993	NEW FILING	06-29-1993		FI		

New Search	Counties	
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	Counties Not Filed (but not necessarily available)	
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#### **Business Name Search**

	Business Entity Types
Code	Description
ABN	Assumed Businese Name
AOG	Act Of Government
DBC	Domestia Business Corparation
DAT	Domestic Business Trust
DEOOP	Cooperative
DDINP	District Improvement Nonprofit
DDIE	District Improvement Profit
DLLC	Domestic Limited Liability Company
DLLP	Domestic Registered Limited Liability Partnership
DLP	Domestic Limited Partnership
DNP	Domestic Nonprofit Corporation
DPC	Domestine Proflusional Corporation
FEC	Foreign Business Corporation
Fat	Foreign Business Taust
FLLC	Foreign Limited Liebility Company
FLLE	Foreign Registered Limited, Liability Partnership
FLP	Foreign Limited Partnership
FNP	Foreign Nonprofit Corporation
FPC	Foreign Professional Corporation
REG	Registered Name
RES	Reserved Name

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For comments or suggestions regarding the operation of this site, please contact : <u>businessregistry.sos@state.or.us</u>



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## **EXHIBIT 3**

FEC FORM 3

# REPORT OF RECEIPTS AND DISBURSEMENTS

For An Authorized Committee

Office Use Only

ART ROBINSON FOR CONGRESS			1
ADDRESS (number and street)  Check if different than previously reported. (ACC)  2. FEC IDENSIFICATION NUMBER  C00481341	CITY A  3. IS THIS NEW REPORT (N) OR	STATE A  AMENDED (A)	ZIP CODE A STATE V DISTRICT
4. TYPE OF REPORT (Choose One)  (a) Quarterly Reports:  X: Agell 15 Quarterly Report (Q1)  July 15 Quarterly Report (Q2)  October 15 Quarterly Report (Q3)  January 31 Year-End Report (YE)	(b) 12-Day PME-Election Report for the: Primary (12P) Convertion (12C) Election on (c) 30-Day POST-Election Report for the General (30G)	General (12G) Special (12S)  Runoff (30R)	In the State of State
5. Covering Period 01 01  I certify that I have examined this Report and to the Type or Print Name of Treasurer Nosh  Signature of Treasurer Electronically Filed by  NOTE: Submission of false, erronadus, or insum  Office	Robinson  Nosh Robinson	Date 06 Figure 15 The Penaltic	010 09 2010 as of 2U.S.C 437g. EC FORM 3

CHEDULE B (FEC	_		rate schedule(s)	FOR LINE	NUMBER:	PAGE 12/14
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rry information copied from sur for commercial purposes, of NAME OF COMMITTEE ()	er than using the nam					
ART ROBINSON FOR	•					
Full Name (Laint, Mret, Hilddle Initial) Dr. ART ROBINSON		Transaction ID: \$817.6448 Date of Disbursement				
Mailing Address 2251	DICK GEORGE R	OAD			03 <sup>m , / . b</sup>	08 2010
City CAVE JUNCTION		State OR	Zip Code 97523		Amount of Eac	h Disbursement this Period
Purpose of Disbursement In-Idad - Produce and Distr	bute Newslatter				;	3315.00
Cundidate Name				Category/ Type		
Office Sought: X Hou Sen Pres		sement For: K Primary Other (spec	2010 General Sity) W			
State: QR District	04					
Full Name (Last, First, Mide Secretary of State Elec-	•				Date of Disbus	
Malling Address 255 (	Capitol St. NE, Sul	to 501			03"	08 2010
City Salem		State OR	Zip Code 97310		Amount of Eas	
Purpose of Disbumment Oregon Cendidacy Filing F						2600.00
Candidate Name				Category/ Type		
Office Sought: ! Hou Sen : Pre	nate	ement For: K <sup>1</sup> Primary Other (spe	2010 General city) 🛡			
Full Name (Lest, First, Mid Signcraft					Date of Diebur	
Mailing Address 20 R	oyal Oaks				103	23 2010
City Roseburg		State OR	Zip Code 97471		p	ch Disbursement this Period
Purpose of Disbursement Campaign Signs Candidate Name				Category	i	1500A.00
Office Sought: Ho	vale sidual	sement For: X Primary Other (ape	2010 [ General city) ▼	Туре		
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TOTAL This Period (lest pag					7	